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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,936	06/25/2001	Helmut Ruehl	LWEP:102_US_	9279

24041 7590 08/11/2004

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EXAMINER	
BHATNAGAR, ANAND P	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/888,936	RUEHL, HELMUT	
	Examiner	Art Unit	
	Anand Bhatnagar	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) 1-5 is/are allowed.

6)☒ Claim(s) 6-14 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 10 and 11 are objected to because of the following informalities: They are duplicate claims with the dependency from the same claim (claim #8). Appropriate correction is required.

Claims 13 and 14 are objected to because of the following informalities: They are duplicate claims with the dependency from the same claim (claim #8). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S.

patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Schwarzmann et al. (U.S. patent 6,650,703 B1).

Regarding claim 6: An arrangement for adapting the lateral and temporal resolution of a microscope image, characterized in that

Schwarzmann et al. discloses a means for detecting the changes in the image content of a microscopic image (col. 1 lines 15 and 16 and col. 9 lines 45-59, wherein the quality and the deterioration of a microscope image is determined. The deterioration is read as the change in the image).;

electronic means for limiting the image content on the basis of the data supplied by the means for detecting the change in the image content (col.2 lines 40-51and col. 6 lines 48-60, wherein the image is compressed which is read as limiting the data content); and

means for automatically switching over to the transmission mode suitable for the detected changes in the image content are provided (col. 6 lines 20-34, wherein the transmission channel is chosen depending on the status of the system. The transmission channel being chosen is read as switching the transmission mode).

Regarding claim 7: The arrangement characterized in that the means for detecting the change comprises an image data processing means that ascertains salient image points and their positions within a defined image window (col. 6 lines 48-52, wherein the microscope image size is determined. The size of the image is read as a defined image window).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

A.) Claims 8, 9-11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarzmann et al. (U.S. patent 6,650,703 B1) and Tsuboshima et al. (U.S. patent 4,242,703).

Regarding claim 8: The arrangement characterized in that the means for detecting the change is a position data processing means, the position data processing means comprising multiple inputs which supply signals regarding the position of an X-Y stage and the magnification and focus of the microscope.

Schwarzmann et al. discloses a system to transmit images using different transmitting channels based on the status of the microscope system. Schwarzmann further discloses wherein the system is an automatic focusing system (Schwarzmann et al.; col. 4 lines 65-67, i.e. the magnification and the

focus of the image is inherently determined in order to perform auto focusing on an image). Schwarzmann et al. does not teach to supply the position of the microscope stage. Tsuboshima et al. teaches to track the movements of a microscope stage (Tsuboshima et al.; col. 3 lines 13-16, read as keeping track of the position/coordinates of a microscope stage). It would have been for one skilled in the art to combine the teaching of Tsuboshima et al. to that of Schwarzmann et al. because they are analogous in the field of microscopy. One in the art would have been motivated to incorporate the teaching, tracking the position of a microscope stage, of Tsuboshima et al. to that of Schwarzmann et al. in order to have track the sample being observed so that the position can be reproduced for future analysis of a region of interest of the sample.

Regarding claims 9-11: The arrangement characterized in that a timer connected to a comparison element is provided, the comparison element continuing to supply a still image at a first output on the basis of a specific time interval of the timer and the result of the comparison (Tsuboshima et al.; col. 1 lines 50-66, wherein a timer monitors a stage moving detection circuit which monitors the time interval since the stage has moved and a image is obtained and displayed. This stage moving detection circuit is read as a comparison circuit since this compares the positions of the stage in order to determine if it has moved).

B.) Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarzmann et al. (U.S. patent 6,650,703 B1), as modified by Tsuboshima et al. (U.S. patent 4,242,703), and further in view of Kapitza (U.S. patent 6,452,625).

Regarding claims 13 and 14: The arrangement characterized in that the comparison element is connected to a switchover means and that, in the event of a deviation in the comparison element, the switchover means thereupon reduces the image data of a current input image in accordance with the bandwidth and the transmission rate in order to generate a live image for video conferencing.

Schwarzmann et al., as modified by Tsuboshima et al., discloses microscopy system that changes/switches the transmission channel for image signal to be transmitted based on the system status (Schwarzmann et al.; col. 2 lines 30-50). Schwarzmann does not teach to perform video conferencing in a microscopy system. Kapitza teaches to perform video conferencing in a microscopy system (Kapitza; col. 3 lines 15-17 and 50-57). It would have been obvious to one skilled in the art to combine the teaching of Kapitza to that of Schwarzmann et al., as modified by Tsuboshima et al., because they are analogus in the field of microscopy. One in the art would have been motivated to incorporate the video conferencing of Kapitza to the system of Schwarzmann et al., as modified by Tsuboshima et al., to have a system wherein a image can be transmitted to a remote location to get another opinion, for discussion, and/or teaching purposes.

C.) Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarzmann et al. (U.S. patent 6,650,703 B1) and Kapitza (U.S. patent 6,452,625).

Regarding claim 12: The arrangement characterized in that the comparison element is connected to a switchover means and that, in the event of a deviation in the comparison element, the switchover means thereupon reduces the image data of a current input image in accordance with the bandwidth and the transmission rate in order to generate a live image for video conferencing.

Schwarzmann et al. discloses microscopy system that changes/switches the transmission channel for image signal to be transmitted based on the system status (Schwarzmann et al.; col. 2 lines 30-50). Schwarzmann does not teach to perform video conferencing in a microscopy system. Kapitza teaches to perform video conferencing in a microscopy system (Kapitza; col. 3 lines 15-17 and 50-57). It would have been obvious to one skilled in the art to combine the teaching of Kapitza to that of Schwarzmann et al. because they are analogus in the field of microscopy. One in the art would have been motivated to incorporate the video conferencing of Kapitza to the system of Schwarzmann et al. to have a system wherein a image can be transmitted to a remote location to get another opinion, for discussion, and/or teaching purposes.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Komatsu et al. (U.S. patent 5,302,829) for a automatic focusing microscope system.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Bhatnagar whose telephone number is (703) 306-5914, whose supervisor is Amelia Au whose number is 703-308-6604, group fax is 703-872-9306, and Tech center 2600 customer service office number is 703-306-0377.

AB

SAMIR AHMED
PRIMARY EXAMINER

Anand Bhatnagar

Art Unit 2623

August 4, 2004.